

## REMARKS

Claims 1-6 are pending in this application. All of the pending claims were rejected.

Claims 1-3 and 5 are currently amended. Reconsideration is respectfully requested.

Claims 1-6 were rejected under 35 U.S.C. 112 for lack of enablement. Because the claim limitations which allegedly lack support in the specification distinguish the cited references, Applicant regrets not referencing all, or at least more, passages of support in the specification. Although the claims have been amended in such a way that some of the terms at issue have been removed<sup>1</sup>, Applicant will now specifically reference the support in the specification for all of the limitations at issue. Regarding claim 1, the specification states that “the notion of what constitutes a better AP takes into account the distance in Banzais, the **available data rate**, and the loading.”<sup>2</sup> (emphasis added) Available data rate is calculated as a function of signal strength and technology type. In particular, “the data rate is deduced based on the received signal strength **and the technology being used (i.e., in an 802.11 environment, the 802.11 mode of operation (a, b, g)).**”<sup>3</sup> (emphasis added) The specification then describes that “in an 802.11 environment, the distance **and 802.11 mode (a, b, g) are used to retrieve the expected data rate for the STA 16 from the distance\_to\_rate table,**” (emphasis added) an example of which is shown in **Table II in Figure 31.**<sup>4</sup> The algorithms for performing calculations are listed at the bottom of page 53, and at page 54, line 5. Therefore, the specification explicitly teaches that (1) technology type is used to determine whether the alternative AP is better; and (2) that the term “technology”

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<sup>1</sup> The terms are being removed not because they lacked support in the Specification, but rather because Applicant filed six applications with somewhat similar claim language, and Applicant now wishes to differentiate the claims in order to obtain more meaningful protection of the inventions described in the Specification.

<sup>2</sup> page 51, lines 1-2

<sup>3</sup> page 52, lines 4-6

<sup>4</sup> page 53, line 19 through page 54, line 2

refers to 802.11 modes and analogous protocols. Further, a specific example is illustrated in Table II in Figure 31. Withdrawal of the rejection is therefore requested.

Regarding the 35 U.S.C. 112 rejection of claim 6, the limitation at issue is employing maximum potential signal strength of the alternative access points. As already noted above, the specification states that “the notion of what constitutes a better AP takes into account the **distance in Banzais**, the available data rate, and the loading.”<sup>5</sup> (emphasis added) The specification further states that “the Banzai is a unit of distance derived from a measurement of received signal strength from an AP 12 operating with a known **transmit power backoff**.”<sup>6</sup> (emphasis added) A specific algorithm for calculating the distance in Banzais is recited at page 39, line 3 as “distance\_in\_banzais = ABS [ MIN [0, (**received\_power + tpbackoff**)]]”.<sup>7</sup> (emphasis added) The variable “received\_power + tpbackoff” is an indication of maximum potential signal strength of the alternative access point. Withdrawal of the rejection is therefore requested.

Claim 1 has been amended to recite a new limitation which clearly distinguishes the cited references. In particular, claim 1 now recites that the ascertaining step considers signal attenuation where the alternative AP transmits at less than full power. As described in the Specification, the notion of what constitutes a better AP takes into account the distance to the AP in Banzais.<sup>7</sup> The distance in Banzais is a function of the received power level and the transmit power backoff.<sup>8</sup> Taking into account attenuation of transmissions by the AP, e.g., for interference mitigation, permits the wireless device to select an AP which is better only after

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<sup>5</sup> page 51, lines 1-2

<sup>6</sup> page 38, lines 14-16

<sup>7</sup> Page 51, first full sentence

<sup>8</sup> Paragraph at bottom of page 38 through top of page 39

increasing that APs transmit power. Without that ability, the better alternative AP might be overlooked or judged to be less capable than the current AP. The newly recited limitation of “ascertaining, by the wireless device, whether the wireless device should attempt to associate with an alternative access point, the ascertaining based at least in-part on a level of attenuation of signal strength of transmissions from the alternative access point where the alternative access point transmits at less than full power” therefore renders the rejection moot. Withdrawal of the rejection of claim 1 is therefore requested.

Claims 2-5 are dependent claims which further distinguish the invention, and which are allowable for the same reason as claim 1. Note also that claim 3 has been amended to recite that AP loading is factored into the decision, support for which is in the specification in section 4.c.1 *Distance to Load Factor Conversion*, starting at page 53. Withdrawal of the rejections of claims 2-5 is also therefore requested.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney at the number listed below so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date

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